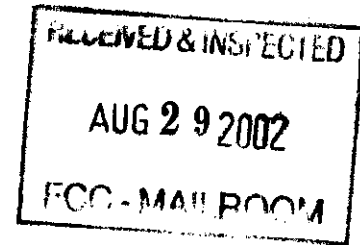


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of )  
 )  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
 )  
SouthWest Ohio Computer Association )  
Hamilton, Ohio )  
 )  
Federal-State Joint Board on )  
Universal Service )  
 )  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

File No. SLD-230441

CC Docket No. 96-45

CC Docket No. 97-21 ✓

**ORDER**

**Adopted: August 26, 2002**

**Released: August 27, 2002**

By the Wireline Competition Bureau:

1. Before the Wireline Competition Bureau (Bureau) is a Request for Review filed by the SouthWest Ohio Computer Association (SOCA), Hamilton, Ohio, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> SOCA seeks review of SLD's denial of one of its Funding Year 2001 requests for discounts under the schools and libraries universal service mechanism.<sup>2</sup> For the reasons discussed below, we deny the Request for Review and affirm SLD's decision.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup>

<sup>1</sup> Request for Review of the Decision of the Universal Service Administrator by SouthWest Ohio Computer Association, CC Docket Nos. 96-45 and 97-21, Request for Review, filed August 13, 2001 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2001 was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 1999 and ended on June 30, 2000, previously known as Funding Year 2, is now called Funding Year 1999. The funding period that began on July 1, 2000 and ended on June 30, 2001 is now known as Funding Year 2000, and so on.

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all potential competing service providers to review.<sup>4</sup> After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.<sup>5</sup> Each such request is submitted on a separate Block 5 worksheet.<sup>6</sup> SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. Upon receipt and successful data entry of an FCC Form 471, SLD issues a Receipt Acknowledgement Letter (RAL), which summarizes the applicant's funding requests.<sup>7</sup> The applicant may make certain types of data corrections to its request during the two-week period after SLD issues the RAL.<sup>8</sup> Corrections that are permitted at this time include changing contact information, reducing the amount of requests included in an application, changing the service provider identification number if the original service provider has merged with or been acquired by the new service provider, and "unbundling" or "splitting" a funding request that incorrectly combined two requests.<sup>9</sup> Conversely, SLD does not permit changes that increase the amount of support requested, or that request services not initially requested.<sup>10</sup>

4. At issue is Funding Request Number (FRN) 633750 of SOCA's Funding Year 2001 application, which sought discounted telecommunications service.<sup>11</sup> In Block 5 of FRN 633750, SOCA stated that it was seeking 12 months of service at a pre-discount cost of \$621.58 per month, and further stated that the total pre-discount cost was \$7,458.96.<sup>12</sup> In Block 5, SOCA

<sup>4</sup> Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470); 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part, Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (*affirming Universal Service First Report and Order in part and reversing and remanding on unrelated grounds*), *cert. denied, Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied, AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed, GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000).

<sup>5</sup> 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (FCC Form 471).

<sup>6</sup> FCC Form 471, Block 5.

<sup>7</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to K. Michael Crumley, SouthWest Ohio Computer Association, dated March 8, 2001 (Receipt Acknowledgement Letter or RAL).

<sup>8</sup> RAL, at 2 (corrections must be submitted "within 2 weeks of the date of this letter").

<sup>9</sup> See RAL, at 2; SLD web site, <[www.sl.universalservice.org](http://www.sl.universalservice.org)>.

<sup>10</sup> *Id.*; see also *Request for Review by Hysham Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142105, CC Dockets No. 96-45 and 97-21, Order, DA 01-2037, para. 3 (Com. Car. Bur. rel. August 30, 2001) (*Hysham Order*).

<sup>11</sup> Request for Review, at 1; FCC Form 471, SouthWest Ohio Computer Association, filed January 18, 2001 (SOCA Form 471).

<sup>12</sup> SOCA Form 471, Block 5, at 11.

also specified a discount rate of 48%, and a resulting funding commitment request of \$3,580.30.<sup>13</sup>

5. On March 8, 2001, SLD issued an RAL for SOCA's application that listed FRN 633750 and specified the requested pre-discount cost as \$7,458.96 and the requested discount rate as 48 percent.<sup>14</sup> On May 17, 2001, SOCA filed a letter with SLD, asserting that the \$621.58 monthly cost it had specified on the Block 5 was erroneous, and that the correct monthly cost was \$8,064.34.<sup>15</sup> SOCA requested that SLD correct this error by changing the total requested cost from \$7,458.96 to \$96,772.08.<sup>16</sup> SOCA asserted that SLD was obligated under Commission precedent to make corrections to the FCC Form 471 if the corrections were requested prior to the issuance of a funding commitment decision letter.<sup>17</sup>

6. Before issuing a funding commitment decision letter on the application, SLD issued a decision denying the correction request.<sup>18</sup> In its decision, SLD stated that it would only make permissible RAL corrections, and that changes to funding requests that increased the amount of funding requested were not permitted.<sup>19</sup> SLD stated that the accuracy of the FCC Form 471 information was the responsibility of the applicant, and that the Commission precedents that SOCA cited did not warrant increasing its request.<sup>20</sup> SOCA then filed the pending Request for Review, seeking review of this decision. At this time, SLD had not yet issued a funding commitment decision letter on the application.

7. In its Request for Review, SOCA argues that SLD should have granted the correction in the requested monthly cost of FRN 633750 to \$8,064.30.<sup>21</sup> SOCA asserts that under Commission precedent, specifically, the *SEOVEC Order*, SLD was obligated to review the entire record before it in determining the correct costs.<sup>22</sup> SOCA concedes that it had requested a

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<sup>13</sup> *Id.*

<sup>14</sup> RAL, at 4.

<sup>15</sup> Letter from K. Michael Crumley, SouthWest Ohio Computer Association, to Schools and Libraries Division, Universal Service Administrative Company, filed May 17, 2001 (Correction Request).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to K. Michael Crumley, SouthWest Ohio Computer Association, dated July 13, 2001 (Administrator's Decision on Appeal), at 1.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Request for Review, at 3.

<sup>22</sup> *Id.* at 3 (citing *Request for Review by Southeastern Ohio Voluntary Education Cooperative, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-172713, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 13109 (Com. Car. Bur. 2001) (*SEOVEC Order*)).

monthly cost of \$621.58 in Block 5, but asserts that the attachments that SOCA included with its FCC Form 471 demonstrated that the monthly cost of the service was actually \$8,064.30.<sup>23</sup> SOCA argues that SLD was obligated -- even prior to issuing an RAL -- to take affirmative steps to resolve this ambiguity by contacting SOCA.<sup>24</sup> SOCA argues that SLD's failure to provide SOCA with an opportunity to resolve the alleged ambiguity was reversible error.<sup>25</sup>

8. In sum, SOCA seeks to increase the pre-discount costs, and thus the funding, that it specifically requested in its Block 5 to an amount allegedly supported by information in the FCC Form 471 attachments. SOCA's request must be denied. In order for the program to operate efficiently, it is administratively necessary for SLD to rely on the cost and funding amounts that applicants enter in Block 5.<sup>26</sup>

9. In essence, what SOCA asks is that SLD review Item 21 attachments to determine whether these concur or conflict with the specific information that the applicant has entered in Block 5. If SLD were required to examine every attachment in thousands of applications to so determine, it would very significantly increase SLD's administrative costs. Such reviews would also delay funding decisions, inhibiting timely disbursement of funds. Furthermore, such review would not necessarily result in a clear determination by SLD. Because applicants are responsible for requesting funds only for eligible services to be delivered to eligible entities, a higher cost in an attachment may reflect a cost for ineligible services that the applicant has subtracted out of its request. Thus, SLD must rely on the pre-discount cost amounts reported in Block 5 rather than amounts referenced in attachments.

10. SOCA's assertion that the *SEOVEC Order* establishes a contrary rule is incorrect. In the *SEOVEC Order*, the Bureau held that SLD had erred in its determination that a service described by the applicant in its application as Internet access was in fact an internal connections service. The Bureau found that SLD had failed to consider evidence that was part of the record and that supported the applicant's position.<sup>27</sup> Thus, in the *SEOVEC Order*, SLD was required to consider the record evidence where SLD had *disputed* the information an applicant presented in Block 5. Nothing in the *SEOVEC Order* establishes that SLD must review additional record evidence before *relying on* the information in an applicant's Block 5. We therefore reaffirm that SLD is entitled to rely on the accuracy of the amounts requested in Block 5, and we conclude that SLD correctly relied on the monthly pre-discount cost for FRN 633750 that was specified in SOCA's Block 5.

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<sup>23</sup> *Id.* at 2-3.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See *Request for Review by Visitation Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-147758, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5469, paras. 9-10 (Com. Car. Bur. 2001) (*Visitation Academy Order*).

<sup>27</sup> *SEOVEC Order*, 16 FCC Rcd 13109, paras. 8-13.

11. SOCA alternatively argues that, under the *Visitation Academy Order*, SLD was obligated to make any corrections that were requested prior to the issuance of the funding commitment decision letter, and that, because SOCA made the correction request at issue here before the issuance of a funding commitment decision letter, SLD erred in not granting the request.<sup>28</sup>

12. We again disagree. In the *Genesee Order*, the Bureau expressly upheld SLD's disallowance of corrections, even when requested prior to the issuance of the funding commitment decision letter, where the corrections would increase the amount of funding sought.<sup>29</sup> The Bureau found that this practice "enables SLD to apply our funding priority rules properly in situations where demand exceeds the annual funding cap."<sup>30</sup> It is true that, in decisions such as the *Visitation Order*, funding correction requests have been denied where no correction had been made prior to the issuance of a funding commitment decision letter.<sup>31</sup> However, these decisions did not conversely establish that a request to correct an amount of funding upward, if made prior to the funding commitment decision, *would* always be granted. As noted above, we have previously upheld, as a general practice, SLD's policy of not permitting changes to an application that increase the amount of support requested. In *Marion County Public Schools Order*, we did find that SLD should allow a correction to a funding request that increased the amount of funding, but in that case, the original Block 5 submitted by the applicant included information that supported the increased amount requested.<sup>32</sup> Specifically, the total annual amount requested reflected the higher amount, while the monthly amount requested the lower figure that was entered by SLD.<sup>33</sup> Here, no information in SOCA's Block 5 reflects the increased amount that it is now requesting. In this circumstance, we find that SLD correctly followed its general policy of disallowing correction requests that increase the amount of funding requested. The monthly amount, annual total amount, and amount of funding request were all consistent with the amounts listed on the RAL.<sup>34</sup> We therefore affirm SLD's decision to deny SOCA's request.<sup>35</sup>

<sup>28</sup> Request for Review, at 3-4 (citing *Visitation Academy Order*).

<sup>29</sup> *Genesee Order*, 16 FCC Rcd 11820, para. 9.

<sup>30</sup> *Id.*

<sup>31</sup> See *Visitation Academy Order*.

<sup>32</sup> Request for Review by Marion County Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-138811, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 8761, para. 7 (Com. Car. Bur. 2001) (*Marion County Public Schools Order*).

<sup>33</sup> *Id.*, para. 3.

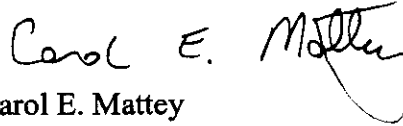
<sup>34</sup> See *supra*, paras. 4-5.

<sup>35</sup> We note that, even if SOCA had been seeking a type of correction permitted through the RAL process, its Correction Request would have been validly denied as untimely, given that the corrections period is 2 weeks from the date of the RAL and the Corrections Request was submitted more than 2 months after that date. See RAL; Corrections Request.

13. Finally, SOCA also asks us to clarify that SLD should at least fund FRN 633750 for the amount stated in the RAL.<sup>36</sup> SOCA notes that the Administrator's Decision on Appeal used the language, "Denied in Full" in connection with the Correction Request.<sup>37</sup> SOCA expresses concern that SLD intends now to deny the FRN completely.<sup>38</sup> However, SLD has already issued a Funding Commitment Decision Letter that, *inter alia*, awarded funding for FRN 633750 in the amount stated in the RAL. This part of the Request for Review is therefore moot.<sup>39</sup>

14. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by SouthWest Ohio Computer Association, Hamilton, Ohio, on August 13, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey  
Deputy Chief,  
Wireline Competition Bureau

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<sup>36</sup> Request for Review, at 4.

<sup>37</sup> *Id.*; Administrator's Decision on Appeal, at 1.

<sup>38</sup> Request for Review, at 4.

<sup>39</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to K. Michael Crumley, SouthWest Ohio Computer Association, dated August 20, 2001, at 7.